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209060US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Isabelle AFRIAT

SERIAL NO.: 09/884,949

FILED: JUNE 21, 2001

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EXAMINER: WELLS

GROUP ART UNIT: 1617

FOR: COMPOSITION IN THE FORM OF
A WATER-IN-OIL EMULSION WITH
A VARIABLE SHEAR RATE AND
METHODS OF USING THE SAME

DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I, Veronique CHEVALIER, hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience in the field of emulsions, particularly water-in-oil (W/O) emulsions, and their use in cosmetic and/or dermatological compositions.

2. I have previously submitted three declarations in support of the above-referenced application in which I discuss and explain certain observations and experiments relating to the claimed invention in this application.

3. Attached hereto at Tabs A and B are two graphs for composition P5 (example 1 of the present application). The graph at Tab A is the same as the graph for P5 submitted with

my July 24, 2002, declaration except that this graph has a larger gradient scale. The graph at Tab B is plotted according to a linear scale rather than a gradient scale.

4. The results in these graphs indicate that W/O emulsions containing 80% or more aqueous phase readily Abreak \equiv (that is, suddenly become fluid) under shear stresses applied to the emulsions. Thus, these results indicate that W/O emulsions containing 80% or more aqueous phase readily Abreak \equiv when applied to skin. When a W/O emulsion Abreaks \equiv more of the aqueous phase becomes available for contact with the skin to which the emulsion is applied, making the W/O emulsion feel less heavy and oily to the skin. Having more aqueous phase available for contact with the skin gives the W/O emulsion a fresher feeling upon application to the skin.

5. For sake of comparison, attached hereto at Tabs C and D are two graphs for comparative example CM 3/5. The graph at Tab C, like the graph at Tab A, has a larger gradient scale. The graph at Tab D, like the graph at Tab B, has a linear scale rather than a gradient scale.

6. The results in these graphs indicate that W/O emulsions having 70% or less of the same aqueous phase (that is, emulsion CM 3/5) do not readily Abreak \equiv . Thus, W/O emulsions having 70% or less aqueous phase do not have as much aqueous phase available for contact with the skin and, thus, do not have the same feeling of freshness upon application which W/O emulsions having 80% or more aqueous phase have.

7. This difference in Abreak properties and, thus, ability to afford freshness upon application to skin between W/O emulsions containing 80% or more aqueous phase and those containing 70% or less aqueous phase is significant in the cosmetic field where freshness upon application to skin is desirable in products. Moreover, this difference between such emulsions was unexpected and surprising.

8. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

9. Further deponent sayeth not.

CHEVALIER Véronique
Name

Véronique Chevalier V.Chl
Signature

1st June 2004
Date